

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

CISCO SYSTEMS INC,  
 Plaintiff,

v.

ARISTA NETWORKS, INC.,  
 Defendant.

Case No. 14-cv-05344-BLF

**ORDER GRANTING IN PART AND  
 DENYING IN PART MOTIONS TO  
 SEAL**

[Re: ECF 522, 530, 553, 561]

This order specifically addresses parties' administrative motions to file under seal portions of their briefing and exhibits in support of their motions in limine. For the reasons stated below, the motions are GRANTED IN PART and DENIED IN PART.

**I. LEGAL STANDARD**

"Historically, courts have recognized a 'general right to inspect and copy public records and documents, including judicial records and documents.'" *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are "more than tangentially related to the merits of a case" may be sealed only upon a showing of "compelling reasons" for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of "good cause." *Id.* at 1097. In addition, sealing motions filed in this district must be "narrowly tailored to seek sealing only of sealable material." Civil L.R. 79-5(b). A party moving to seal a document in whole or in part must file a declaration establishing that the

identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

## II. DISCUSSION

The Court has reviewed the parties’ sealing motions and respective declarations in support thereof. The Court finds the parties have articulated compelling reasons to seal certain portions of most of the submitted documents. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

### A. ECF 522

Identification of Documents to be Sealed	Description of Documents	Court’s Order
Arista’s Motion in Limine No. 1 Re ITC Investigations References	Highlighted portions contain Arista’s confidential business information.	GRANTED.
Arista’s Motion in Limine No. 5 to Exclude Evidence and Argument Regarding Documents Labeled as “Confidential” to Cisco	Lines 22-23 on page 1 and lines 3-12 on page 4 contain Cisco’s confidential business information. Cisco does not seek to seal the remaining highlighted portions.	GRANTED as to highlighted portions at lines 22-23 on page 1 and lines 3-12 on page 4; and DENIED as to remainder.
Exhibit A to the Wong Decl. (Excerpts from the Cisco Trial Exhibit List)	Cisco does not seek to seal the document.	DENIED.
Exhibit C to the Wong Decl. (Excerpts from Exhibit 6 to the Expert Report of Kevin Almeroth, served on June 3, 2016)	Exhibit C is an excerpt of Exhibit 6 to the Expert Report of Kevin Almeroth which contains Cisco’s trade secret information.	GRANTED.
Exhibit D to the Wong Decl. (Cisco’s Supplemental Objections and Responses to Arista Networks, Inc.’s Interrogatory Nos. 2–10, dated May 27, 2016)	The highlighted portions of this exhibit on page 16 contain Cisco’s confidential source code, as well as confidential information about Cisco’s technology.	GRANTED.
Exhibit V to the Wong Decl. (TX03480 – Example of an Arista-Produced Document with “Cisco Confidential” Labeling on Cisco’s trial exhibit list)	Exhibit V comprises Cisco’s confidential information regarding, <i>inter alia</i> , confidential information about Cisco’s product architecture and technology.	GRANTED.
Exhibit W to the Wong Decl. (TX03741 – Example of an	Exhibit W contains Cisco’s confidential information	GRANTED.

1	Arista-Produced Document with "Cisco Confidential" Labeling on Cisco's trial exhibit list)	regarding, inter alia, Cisco's competitive intelligence and related strategies.	
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3	Exhibit X to the Wong Decl. (TX04564 – Example of an Arista-Produced Document with "Cisco Confidential" Labeling on Cisco's trial exhibit list)	This exhibit contains Cisco's confidential information regarding, <i>inter alia</i> , Cisco's customers, Cisco's technology and product architecture, and Cisco's competitive intelligence and related strategies. Maintaining	GRANTED.
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7	Exhibit Y to the Wong Decl. (Drew Pletcher Deposition Transcript Excerpts)	Pages 90-97 and 326 of the transcript contain confidential information about Cisco's customers, Cisco's business development, Cisco's competitive intelligence, and strategies related to the same.	GRANTED as to pages 90-97 and 326; and DENIED as to the remainder.
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11	Exhibit Z to the Wong Decl. (Deepak Malik Deposition Transcript Excerpts)	Pages 189-196 of this transcript contain confidential information about Cisco's customers, Cisco's business development, Cisco's competitive intelligence, and strategies related to the same.	GRANTED as to pages 189-196; and DENIED as to the remainder.
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**B. ECF 530**

Identification of Documents to be Sealed	Description of Documents	Court's Order
Cisco's Motion in Limine No. 1: Motion to Exclude Argument and Evidence in Support of Equitable Defenses	Arista does not seek to seal the highlighted portions.	DENIED.
Cisco's Motion in Limine No. 2: Motion to Exclude Evidence Related to "Industry Standard"	Arista does not seek to seal the highlighted portions.	DENIED.
Cisco's Motion in Limine No. 3: Motion to Exclude Untimely Disclosed Witnesses	Arista does not seek to seal the highlighted portions.	DENIED.
Cisco's Motion in Limine No. 4: Motion to Exclude Untimely Disclosed NonInfringement Theory	Arista does not seek to seal the highlighted portions.	DENIED.
Cisco's Motion in Limine No. 5: Motion to Exclude Testimony of Terry Eger	Arista does not seek to seal highlighted portions.	DENIED.
Exhibit 2 to the Declaration of Sara E. Jenkins in Support of	Pages 28:2-25, 63:17-25, and 103:15-16 contain Arista's	GRANTED as to 28:2-25, 63:17-25, and 103:15-16; and

1	Cisco's Motions in Limine (Excerpts from May 25, 2016 Dep. Tr. of Terry Eger)	confidential business and sales information. Arista does not seek to seal the remaining portions of the exhibit.	DENIED as to remainder.
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3	Exhibit 4 to the Jenkins Declaration (Arista's Responses to Cisco's Fourth Set of Interrogatories)	Arista does not seek to seal the document.	DENIED.
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5	Exhibit 5 to the Jenkins Declaration (Arista's Further Supplemental Responses to Cisco's First, Third, and Fourth Sets of Interrogatories)	Arista does not seek to seal the document.	DENIED.
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7	Exhibit 7 to the Jenkins Declaration (Excerpts of Expert Report and Disclosure of Cate M. Elsten)	This exhibit contains confidential business information about Arista's customer relationships.	GRANTED.
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9	Exhibit 8 to the Jenkins Declaration (Excerpts of Expert Report and Disclosure of Cate M. Elsten)	Ms. Elsten's Rebuttal Report contains Arista's non-public and sensitive business, product pricing, and customer information, as well as Cisco's confidential business information.	GRANTED.
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11	Exhibit 9 to the Jenkins Declaration (Excerpts from April 5, 2016 Dep. Tr. of Mark Edward Berly)	Pages 88, 90, 189, and 238 of this exhibit contain Arista's confidential business information. Arista does not seek to seal the remaining portions of the exhibit.	GRANTED as to pages 88, 90, 189, and 238; and DENIED as to remainder.
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13	Exhibit 10 to the Jenkins Declaration (Excerpts from February 25, 2016 Dep. Tr. of Jayshree Ullal)	Arista does not seek to seal the document.	DENIED.
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15	Exhibit 11 to the Jenkins Declaration (Rebuttal Expert Report of John R. Black, Jr.)	Arista does not seek to seal the document.	DENIED.
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17	Exhibit 14 to the Jenkins Declaration (Excerpts from May 26, 2016 Dep. Tr. of Anshul Sadana)	Pages 10:15-12:25 of transcript contain Arista's confidential business information. Arista does not seek to seal the remaining portions of the exhibit.	GRANTED as to pages 10:15-12:25; and DENIED as to remainder.
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**C. ECF 553**

Identification of Documents to be Sealed	Description of Documents	Court's Order
Arista's Opposition to Cisco's	Cisco does not seek to seal the	DENIED.

1	Motion in Limine No. 1	document.	
2	Arista's Opposition to Cisco's Motion in Limine No. 2	Cisco does not seek to seal the document. Other parties have provided no declarations in support of sealing this document.	DENIED.
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4	Arista's Opposition to Cisco's Motion in Limine No. 3	Highlighted portions contain Arista's confidential business and customer information.	GRANTED.
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6	Arista's Opposition to Cisco's Motion in Limine No. 4	Cisco does not seek to seal the document.	DENIED.
7	Arista's Opposition to Cisco's Motion in Limine No. 5	Lines 21-28 on page 1, lines 1-8 and 18-24 on page 2, lines 13 and 28 on page 3, lines 1, 12-13, and 18-20 on page 4, and lines 15-17 on page 5 contain Cisco's confidential business and product information. Cisco does not seek to seal the remaining portions of the exhibit.	GRANTED as the highlighted portions of text at lines 21-28 on page 1, lines 1-8 and 18-24 on page 2, lines 13 and 28 on page 3, lines 1, 12-13, and 18-20 on page 4, and lines 15-17 on page 5; and DENIED as to remainder.
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13	Exhibit 4 to the Declaration of Ryan Wong in Support of Arista's Opposition to Cisco's Motions in Limine Nos. 1-5 ("Wong Decl.")	Exhibit contains Cisco's confidential information regarding about Cisco's product development.	GRANTED.
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16	Exhibit 8 to the Declaration of Ryan Wong in Support of Arista's Opposition to Cisco's Motions in Limine Nos. 1-5 (Excerpts from the May 20, 2016 Dep. Tr. of Gavin Cato)	Third party Dell, Inc. has provided no declaration in support of sealing this exhibit.	DENIED.
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20	Exhibit 9 to the Declaration of Ryan Wong in Support of Arista's Opposition to Cisco's Motions in Limine Nos. 1-5 (Excerpts from the Feb. 16, 2016 Dep. Tr. of Philip Kasten)	Exhibit contains confidential information of Juniper Networks, Inc., regarding highly proprietary software.	GRANTED.
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24	Exhibit 10 to the Declaration of Ryan Wong in Support of Arista's Opposition to Cisco's Motions in Limine Nos. 1-5 (Excerpts from the May 2, 2016 Dep. Tr. of Balaji Venkatraman)	Cisco does not seek to seal this exhibit. No other declarations have been filed in support of sealing this exhibit.	DENIED.
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28	Exhibit 11 to the Declaration of Ryan Wong in Support of	Exhibit contains confidential information about Cisco's	GRANTED.

1	Arista's Opposition to Cisco's Motions in Limine Nos. 1–5 (Excerpts from the March 31, 2016 Dep. Tr. of Phillip Remaker)	product development and architecture.	
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3	Exhibit 12 to the Declaration of Ryan Wong in Support of Arista's Opposition to Cisco's Motions in Limine Nos. 1–5 (Excerpts from the March 31, 2016 Dep. Tr. of Phillip Remaker)	No declaration has been filed in support of sealing this exhibit.	DENIED.
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5	Exhibit 19 to the Wong Decl. (Excerpts from the June 7, 2016 Dep. Tr. of Frank Palumbo)	Cisco does not seek to seal the document.	DENIED.
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7	Exhibit 22 to the Wong Decl. (Excerpts from July 26, 2016 Dep. Tr. of Judith Chevalier)	Exhibit contains both Cisco and Arista's confidential information regarding its customers and sales information.	GRANTED.
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9	Exhibit 23 to the Wong Decl. ("Exhibit 2" to the Opening Expert Report of Kevin Almeroth)	No declaration has been filed in support of sealing this exhibit.	DENIED.
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11	Exhibit 27 to the Wong Decl. (Transcript Excerpts from Jan. 29, 2016 Dep. of Adam Sweeney)	No declaration has been filed in support of sealing this exhibit.	DENIED.
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13	Exhibit 31 to the Wong Decl. (Excerpts from May 25, 2016 Dep. Tr. of Terry Eger)	Lines 2-25 on page 28 contain Arista's confidential business and sales information. Sections at 69:22-70:6 and 75:8-20 contain Cisco's confidential business information. Cisco and Arista do not seek to seal other portions of the exhibit.	GRANTED as to lines 2-25 on page 28, line 22 on page 69 to line 6 on page 70, and lines 8-20 on page 75; and DENIED as to remainder.
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15	Exhibit 34 to the Wong Decl. (Cisco Internal Document)	Exhibit contains confidential information about Cisco's competitive intelligence and related strategies.	GRANTED.
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17	Exhibit 35 to the Wong Decl. (Cisco Internal Document)	Cisco does not seek to seal the document.	DENIED.
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19	Exhibit 36 to the Wong Decl. (Cisco Internal Document)	Exhibit contains confidential information about Cisco's product development and architecture.	GRANTED.
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**D. ECF 561**

<b>Identification of Documents to be Sealed</b>	<b>Description of Documents</b>	<b>Court's Order</b>
Cisco's Opposition to Arista's Motion <i>in Limine</i> No. 1	Highlighted portions contain Arista's confidential business information except for the highlighted portions at lines 20-23 on page 3. Arista does not seek to seal the highlighted portion at lines 20-23 on page 3.	GRANTED as to the highlighted portions, except at lines 20-23 on page 3; DENIED as to the highlighted portion at lines 20-23 on page 3.
Cisco's Opposition to Arista's Motion <i>in Limine</i> No. 3	Arista does not seek to seal the highlighted portions.	DENIED.
Cisco's Opposition to Arista's Motion <i>in Limine</i> No. 5	Highlighted portions contain confidential information about Arista's competitive intelligence and related strategies.	GRANTED.
Exhibit 1 to the Declaration of John M. Neukom in Support of Cisco's Oppositions to Arista's Motions <i>in Limine</i> (ITC Commission Opinion)	Exhibit contains Arista's confidential business information.	GRANTED.
Exhibit 5 to the Neukom Declaration (Excerpts from April 25, 2016 Dep. Tr. of Charles Giancarlo)	Exhibit contains confidential business information of both Cisco and Arista.	GRANTED.
Exhibit 17 to the Neukom Declaration ((Excerpts from February 12, 2016 Dep. Tr. of Kenneth Duda)	Exhibit contains confidential information about Arista's competitive intelligence and sales.	GRANTED.
Exhibit 18 to the Neukom Declaration (Excerpts from December 18, 2015 Dep. Tr. of Abhay Roy)	Exhibit contains confidential information about the development of Cisco's products.	GRANTED.
Exhibit 19 to the Neukom Declaration (Email from Kumar Srikartan)	Exhibit contains confidential information about Cisco's product development and technology.	GRANTED.
Exhibit 20 to the Neukom Declaration (Internal Cisco Document)	Exhibit contains confidential information about Cisco's product development and technology.	GRANTED.
Exhibit 21 to the Neukom Declaration (Email from Pradeep Kathail)	Exhibit contains confidential information about Cisco's product and business	GRANTED.

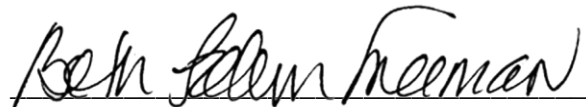
	development.	
Exhibit 22 to the Neukom Declaration (Email from David Ward)	Exhibit contains confidential information about Cisco's product and business development.	GRANTED.
Exhibit 23 to the Neukom Declaration (Email from Mallun Yen)	Exhibit contains confidential information about Cisco's business and finances.	GRANTED.
Exhibit 24 to the Neukom Declaration (December 17, 2002 Letter from Mallun Yen)	Exhibit contains confidential information about a Cisco license and Cisco's competitive strategies.	GRANTED.
Exhibit 28 to the Neukom Declaration (Internal Cisco Document)	Exhibit contains Cisco's confidential information about Cisco's technology, business and product architecture.	GRANTED.
Exhibit 30 to the Neukom Declaration (Internal Cisco Document)	Exhibit contains Cisco's confidential information about Cisco's technology, business and product architecture.	GRANTED.
Exhibit 31 to the Neukom Declaration (March 17, 2016 Dep. Tr. of Anshul Sadana)	Exhibit contains Arista's confidential information about Arista's competitive intelligence and sales strategies.	GRANTED.

### III. ORDER

For the foregoing reasons, the sealing motions at ECF 522, 530, 553, 561 are GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later than 10 days from the filing of this order.

**IT IS SO ORDERED.**

Dated: October 25, 2016

  
 BETH LABSON FREEMAN  
 United States District Judge